

A Summary of Land Conservation Options For Landowners in the Puget Sound Area



Klingel Wetland Refuge



Photo by Joanne Tejada



Davis Farm Conservation Easement

The Pacific Northwest is a region of unparalleled natural beauty, from Olympic Mountain peaks to salmon-rich Puget Sound, from fertile forests and farmlands, to shimmering streams and boulder-strewn beaches. Our ecological treasures have not been taken for granted. Our federal, state, and local park networks, and the private lands enrolled in conservation programs reflect the resolve of our citizens to protect natural areas for current and future generations.

Landowners of the Puget Sound area can play a vital role in the conservation of the diverse natural landscapes that define our region. The preservation of key farms and woodlands, wetlands and streams, shorelines and groundwater resources by landowners is critical to the overall effort to conserve the vibrant ecological mosaic that is the Pacific Northwest.

Some of the conservation tools available to landowners include conservation easements and county current use taxation programs. These and other tools are described on the following pages. Examples of landowner efforts to protect and conserve natural lands are highlighted, and local governmental and private organizations that can assist with the implementation of conservation tools are identified.

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As a landowner in the Pacific Northwest, you have a unique opportunity to help maintain or improve the health of stream and shoreline areas.

Healthy streams, shorelines, and salt marshes:

- ✓ Reduce the chance of flooding
- ✓ Improve water quality
- ✓ Support nearshore nurseries that are spawning, rearing, and breeding grounds for numerous species.

Plants in healthy riparian areas:

- ✓ Provide wood to streams, creating fish habitat and slowing the stream current after a storm.
- ✓ Shade streams in summer. Cool water is healthier for many native fish species
- ✓ Help prevent erosion with their roots
- ✓ Filter sediment out of muddy runoff, keeping it from smothering fish habitat
- ✓ Filter out pollutants such as fertilizers, pesticides, and animal wastes

Oregon State University 2002 +
marine shoreline update



Why Should I Conserve Land?

A rich natural heritage of mountains and forests, rivers and streams, and miles of diverse coastline draw many people to live in the Puget Sound area. Working farms, forestlands, and fisheries have long sustained the region's inhabitants. Salmon are a keystone species that hold significant cultural, economic and ecological value in our Pacific Northwest bioregion. Landowners seeking to protect and steward our natural resource heritage can use conservation tools to (1) protect key habitat parcels on their land important to salmon and other wildlife, (2) conserve open space, (3) support their farming and forestry management practices, (4) retain ownership of their land, and (5) reap financial benefits such as income, estate, and property tax reductions. Landowners using conservation tools are practicing an ethic that values open space, wildlife habitat, and natural resource lands for current and long-term benefit and enjoyment.

Who Can Help Me with Land Conservation Tools?

Property owners pursuing land conservation options can seek support from both private and public organizations. Private land trusts are nonprofit organizations that are tax-exempt under the Internal Revenue Code. Land trusts are available to explain the numerous conservation options and to work with individual property owners, community organizations, developers and local jurisdictions to assist in implementing conservation plans. For example, the **Great Peninsula Conservancy** is a private, non-profit land trust working with landowners across Kitsap, Mason, and northwest Pierce Counties. Local governments such as **Mason County** also acquire land for conservation purposes, or provide property owners with tax incentives to preserve conservation values and natural resources on private land. Some of the local and regional land conservation organizations working in the Puget Sound area are listed on page 5. These organizations can be contacted with any questions or ideas on how the techniques summarized below can help you, your family, or other partners in conservation with whom you work.

What Conservation Tools Might I Use?

There are many options available to a landowner interested in conservation; a combination of tools often will be utilized. Brief summaries of commonly used conservation tools are provided on the following pages. Tax incentive programs offered by local governments are first summarized, followed by conservation easement, purchase, and donation options offered by both public and private groups.

Mason County Current Use Taxation Programs

In 1971 the State of Washington enacted an Open Space Taxation Act. The act offers reduced property taxes to property owners who agree to preserve conservation values and/or natural resources on their land [see regulations in Chapters 84.34 and 84.33 of the revised code of Washington (RCW) and Chapter 458-30 of the Washington Administrative Code.] This conservation tool is referred to as "current use taxation", because the property tax is based on the "current use" of the property (for example, undeveloped land with intact conservation values) rather than the "highest and best use" that usually applies on land within the county. By agreeing to not develop or use the land to the highest and best use allowed, the property owner pays a tax based on a lower land assessed value, which is less than fair market value tax.

Mason County administers the four State of Washington current use taxation programs for property located in Mason County. These include the **open space land**, **farm and agriculture land**, and **timber land** programs established under RCW 84.34, and the **forest land** program established under RCW 84.33. These incentive programs offer tax advantages to property owners with land that enrolls in one or more of the following:

- **Open space land** that has one or more of the conservation values identified by RCW 84.34. Examples of these conservation values are listed in the box to the right. Public access to open space land is not required.
- Five to twenty acres of contiguous **Timber Land** in a rural, agricultural or forest zone. The land must be devoted primarily to the growth and harvest of forest crops for commercial purposes, and a forest management plan must be developed and approved. Landowners requiring assistance in completing a forest management plan can attend Washington State University forest stewardship classes (see WSU contact information on Page 5.)
- Twenty or more acres of contiguous **Forest Land** primarily devoted to the growth and harvest of timber.
- **Farm and Agricultural lands:** for property used for the production of livestock or agricultural commodities for commercial purposes. The financial requirements are dependent on the size of the land and the gross annual revenue received for the land for three out of the last five years. Farms between 5 and 20 acres must derive an annual income from agricultural uses of \$200 or more per acre. Farms of less than 5 acres must derive an annual income of \$1,500 or more from agricultural uses while farms of 20 acres or more have no annual income requirements.

Your may qualify for an open space land tax break if the preservation of your land in its present use would:

Conserve and enhance natural or scenic resources

Protect streams or water supply

Conserve soils, wetlands, beaches, or tidal marshes

Public land buffer

Enhance recreational opportunities

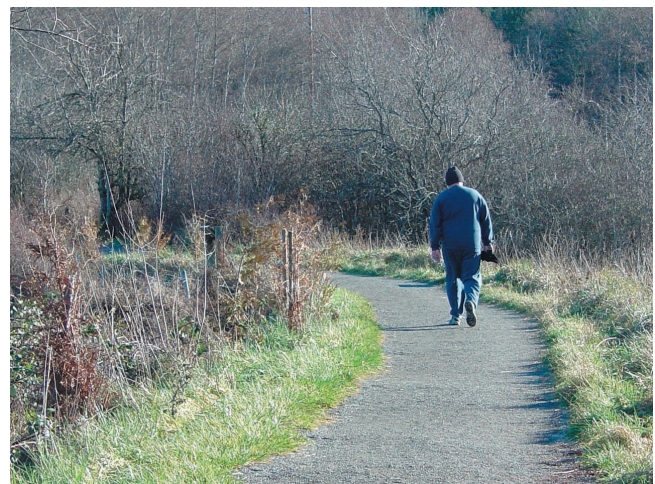
Preserve historic sites

Preserve public view corridors

Retain urban open space

Farm and agricultural conservation land

Landowners submitting current use taxation program applications by December 31st of any given year will have their applications processed during the next year, with tax savings on approved applications starting during the following year. Check with Mason County about application fees that may apply for these programs. There is a financial disincentive for early withdrawal from any current use taxation program. Basically, tax savings for up to the most recent seven years (RCW 84.34) and interest are owed, and a landowner may incur a 20% penalty if the land is not enrolled for ten years and if two years notice for withdrawal is not given. If land ownership changes, the new buyer may agree to remain in the current use taxation program. Otherwise, the owner is responsible for any withdrawal costs.



Theler Wetlands Nature Preserve and Trails

Great Peninsula Conservancy:

A private nonprofit land trust dedicated to forever protecting the rural landscapes, natural habitat and open spaces of Kitsap, Mason and northwest Pierce counties.

Examples of Protected Lands:

Homestead Park

Former 98.6 acre farm, now a public park, located on the Gig Harbor Peninsula. Valued by the community for its forests, wetlands, and rolling meadows.

Johnson South Sound Preserve

This 33-acre preserve on Key Peninsula includes 1,480 feet of spectacular unspoiled Puget Sound shoreline, a saltwater lagoon and an adjacent forest.

Conservation Flow Chart

This chart is a good starting place for considering the best option for protecting your property

Do you want to retain title to your property?

YES:

Current use taxation
Conservation easement
Management agreement
Mutual covenant

NO



Do you want to receive compensation for your property?

YES:

Fair market value sale
Bargain sale

NO



Do you want to continue to live on your property?

YES:

Donation by will
Donation by remainder interest

Conservation Easements

A *conservation easement* is a legal agreement between a landowner and a qualified conservation organization or a government agency that permanently limits land uses in order to protect conservation values. Certain rights, which a landowner holds by owning a property, are granted to the qualified conservation organization or agency through the conservation easement. For example, in a conservation easement, a landowner may permanently reduce the number of homes that can be built on a property. Or, to permanently preserve a forest for wildlife habitat, an easement may prohibit or limit logging, or identify acceptable logging practices. Conservation easements can also be used to protect agricultural and forest resource lands. The extent and nature of the restrictions are based on the conservation goals of the landowner in combination with the goals of the organization or agency.

A conservation easement offers several advantages. The grantor of an easement retains ownership and may continue to use the land, sell it, or pass it on to heirs. Easements are flexible, and can be written to meet a landowner's needs while protecting the conservation values. An easement provides permanent restrictions that continue to apply to future owners. The organization or agency holding a conservation easement is responsible for ensuring that its restrictions are enforced. The easement holder may ask the landowner for a monetary donation to fund long-term stewardship and monitoring activities.

A conservation easement can be donated outright or in a will. The donation of an easement can lower federal income and estate taxes and, in some cases, local property taxes. For example, if an easement extinguishes any future development of a property, the property owner may be eligible for a federal tax deduction equal to the value of the extinguished development rights. To be eligible, a qualified appraisal of the before and after value of the land must be completed and the easement must meet IRS standards for "qualified conservation contributions."

Donating Land

Land donated to a private land trust or a government agency is truly one of the finest legacies a person can leave for future generations. Donating land may be especially attractive to a landowner:

- whose land has significant conservation values and no heir is available to protect the land;
- who owns highly appreciated property which if sold would result in large capital gains taxes;
- who has substantial real estate holdings and wishes to reduce estate tax burdens; or
- who would like to be relieved of the responsibility of managing and caring for land that is otherwise treasured.

An owner may donate the entire *fee simple* interest in the property by deed or transfer a *partial interest* either by deed or by creating a conservation easement. The donation of any interest in land to a qualified charitable organization, such as a nonprofit land trust, may provide substantial income, property, or estate tax benefits, as well as avoidance of taxation on capital gains. Federal tax deductions can be spread over six years. A donation can also be divided into several smaller gifts that are transferred to a land trust over a period of several years to utilize more effectively the resulting charitable deduction.

Land can also be donated subject to a *reserved life estate*, meaning that the landowner and other identified persons can continue to live on the donated property during their lifetimes. A *donation by will* allows an owner to enjoy full lifetime use of the property while assuring that its conservation values will be protected for future generations.

Before donating land, it is important to make sure that the property meets the criteria established by both the conservation organization you have chosen to work with and by any applicable tax regulations. **Because federal regulations may limit a taxpayer's ability to fully utilize a deduction, a landowner should seek professional advice when considering conservation options.**

Selling Land

Government and non-profit organizations often have limited financial resources available for fair market value purchases. A landowner offering a *bargain sale* (that is, less than fair market value) increases the possibility that funding can be obtained for the transaction. A bargain sale also offers potential tax benefits to the seller. The difference between the appraised fair market value and the sale price to a land trust or a government agency is considered a tax-deductible charitable contribution. In this way, tax savings realized by the seller may partially offset the apparent financial sacrifice of a bargain sale. A landowner may offer an *option to purchase*, under which the buyer and seller agree to a specific sale price and terms, giving a conservation group a specific time period to raise the necessary funds. An owner may also offer a *right of first refusal*, giving a conservation organization a specific period of time to match a bona fide offer from another purchaser.

Conservation Strategy

Before finalizing a conservation plan, consider the following:

(1) Identify your conservation partners. Great Peninsula Conservancy, Mason County, or other land conservation organizations can provide you with guidance on appropriate conservation options. Your accountant and attorney can also provide necessary information. Consult other specialized financial and legal advisors as necessary before entering into any land conservation transaction.

(2) Determine your land conservation goals. Do you wish to continue living on the land and pass it on to your heirs? What are the features or functions of the land that you want to conserve? What are the greatest threats to the land and its conservation values? Do you have conservation goals that fit into the needs of your community?

(3) Understand your personal and financial situation. Do you need income from the land? Do you want to build additional homes on the land? Is the land your most significant asset? How much has your land appreciated in value?

(4) Set your goals and priorities. Consider what you have learned about your land, and decide what values are the most important and what you are trying to accomplish.

(5) Determine what existing programs or laws are available to help you achieve your goals. Design a strategy that fits your needs with the assistance of the appropriate professionals. Recognize that each situation is unique, that your actions are voluntary, and that options available today may not be in the future.

CONTACTS

Mason County Government

Current Use Taxation Programs

Assessors Office
411 N. 5th St, Shelton WA 98584
(360) 427-9670 Ext. 491

Land Trusts

Great Peninsula Conservancy
Ann Haines, Executive Director
(360) 373-3500
(866) 373-3504 toll-free
e-mail: info@greatpeninsula.org
<http://www.greatpeninsula.org/>

Conservation Districts (CD)

Mason Conservation District
Jennifer Eklund
360-427-9436
jleklund@attglobal.net

Natural Resource Conservation Service

Bari Williams
360-337-4433
bari.williams@wa.usda.gov

WSU Extension

Bob Simmons
Water Resources Faculty
360-786-5445, Ext. 7915
simmons@wsu.edu

Mike Nystrom
WSU Extension Forester
253-350-0018
mike.nystrom@wadnr.gov

WETLAND RESERVES AND OTHER CONSERVATION OPTIONS

Another conservation option for landowners is to enroll eligible lands in permanent easement or 30-year easement payment programs. Cost-share agreements and technical support are also available. The **Mason Conservation District** and the **Natural Resources Conservation Service** offer several such programs, including:

- the **Wetland Reserve Program** (land easement options and restoration cost share programs)
- the **Wildlife Habitat Incentives Program** (cost share for upland, wetland, riparian, and aquatic habitat)
- the **Environmental Quality Incentives Program** (cost share for agricultural producers to optimize environmental benefits)
- a new **Conservation Security Program** (financial compensation for natural resource management on agricultural lands).

Mason Conservation District also provides no-cost technical assistance regarding farm planning as well as a cost-share program for livestock fencing and restoration plantings in riparian areas. Contact Jennifer Eklund of the Mason Conservation District for further details on these conservation options (360-427-9436 or jleklund@attglobal.net).

LEAVING A LEGACY

“What we are doing is saving farmland,” said Irene Davis in a 1984 interview. She and her husband Tom bought 80 acres on the Old Belfair Highway in 1950 at about \$100 per acre and purchased additional acres over the years. Part of the land was used as the family’s farm, and is still run by the family today.

Irene and Tom Davis are no longer with us, but their legacy of commitment to their family, land, and community lives on. Irene learned about conservations easements and thought an easement might be the way for her family to save their farm, as a farm, forever. In September 1984, Irene and Tom Davis, with the blessing from their ten children, donated to the Hood Canal Land Trust, now a chapter of the Great Peninsula Conservancy, a conservation easement on their 140 acre centennial farm. They also donated an endowment to ensure the Conservancy’s ongoing stewardship of the property. The conservation easement allows for timber harvest and ongoing farming practices while protecting important wildlife habitat. The land will never be subdivided or developed. The Union River corridor that runs through the farm will always have a 50 foot buffer zone where neither crop production nor livestock will be allowed.

The easement itself illustrates the Davis’ passion for contributing to the life and beauty of their community. “It has been farm and forestland for over 100 years”, said Irene when the easement was completed in 1984. “The land is valuable and it is valuable for other reasons besides money. I feel like if we leave it just as it is, it will be good for the community. There’s no way that you can replace it”, she added.

One of the remarkable parts of this story is that all ten Davis children were in agreement



Irene and Tom Davis

to protect the farm forever. Year after year the Davis children will reside on, steward and love the farm. They will build, as their parents did, a strong connection to the earth and to the preservation and protection of its bounty.

On the Davis Farm the Union River will continue to murmur over stones shaded by the spreading canopy of broad leaf maples. The fields will curve, fallow or plowed, with brushy borders where birds nest and small mammals hide. When we feel as if there is not enough time to save land we can remember Irene’s words, “There’s never enough time. Don’t let time rule you. Just keep working and trying.” With conservation easements we make a choice to give future generations a chance to enjoy the land, just as we have.

Ann Haines, Executive Director,
Great Peninsula Conservancy

